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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,115	04/04/2001	Gwong-Jen J. Chang	14114.0332U3	4134
75	90 09/03/2003			
	ARDING, Ph.D	EXAMINER		
	TRADE CENTER, SUIT	PARKIN, JEFFREY S		
121 SW SALM	ON STREET OR 97204-2988			
FORTLAND, C	JK 9/204-2900		ART UNIT	PAPER NUMBER
			1648	. 1
			DATE MAILED: 09/03/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner	<u> </u>		Applicati n N .	Applicant(s)			
Examiner Jeffrey S. Parkin, Ph.D. -The MAILING DATE of this communication appears on the cover sheet with the correspondence address Peri d for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 01 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Editinuous of time may be available under the provisions of 37 CFR 1.13(6), in no event, however, may a raply be timely filed after 15th ORGANITIS from the mailing date of the communication. If MORNITIS from the mailing date for the communication with 15th Operiod for reply is specified above, the maximum statutory prient will apply and will excise SIX (b) MORTHS from the mailing date of the communication. If MO period for reply is specified above, the maximum statutory prient will apply and will excise SIX (b) MORTHS from the mailing date of this communication. Failther the reply willshift has at or centred period for reply will, by statute, cause the application become ABANDONEO SIX U.S. C) § 1333. Any reply received by the Office later than three months after the mailing date of the communication, even if timely filed, may reduce any statutes are proportionally as a specific state of the communication, even if timely filed, may reduce any statutes are specified as a spice and the communication and the com	Office Action Summary		``	CHANG, GWONG-JEN J			
Jeffrey S. Parkin, Ph.D. 1648							
Peri d for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 01 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be waitible under the provisions of 37 CFR 1.196(a). In no event, however, may a reply be timely filed after SIX (b) MONTHS from the mailing date of this communication. If the period for reply specified above, the maximum statutory parted will apply and will explicit any of the provision of the provision of 37 CFR 1.196(a). In no event, however, may a reply be timely filed after SIX (b) MONTHS from the mailing date of this communication. If the period for reply a specified above, the maximum statutory parted will apply and will explicit any filed of the communication. If the period for reply a specified above, the maximum statutory parted will apply and will explicit any filed. The provision of the communication. If the period for reply specified issue, the maximum statutory parted will apply and will explicit any filed. The provision of the provision of the provision of the provision of the communication. Any reply received by the Office later from three mailing date of this communication, even if timely filed, may reduce any assembly apply and the provision of the communication. 1) Separation of the specification is filed on O4 April 2001. 2a) This action is FINAL. 2b) This action is finAll. 2b) This action is FINAL. 2b) This action is finAll the practice under Ex parte Ouayle, 1935 C.D. 11, 453 O.G. 213. Disp sition of Claims 4) Claim(s) 1.43 is/are rejected. 7) Claim(s) 1.43 is/are rejected. 7) Claim(s) 1.43 is/are rejected. 7) Claim(s) 1.43 is/are rejected to 2.54 reply and 1.54 reply and 1.55 reply and 1		-					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 01 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.36(a). In no event, however, may a reply be timely filed after St. (b) MoNTH Stoom the realisting date of this communication. after St. (b) MoNTH Stoom the realisting date of this communication. after St. (b) MoNTH Stoom the realisting date of this communication. after St. (b) MoNTH Stoom the realisting date of this communication. Failure to reply within the set or extended above, the maximum statutory prodef will apply and with septe St. (b) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (38 U.S.C. § 133). Any reply received by the Office late than three mentins after the mailing date of this communication, even if timely filed, may reduce any extend placent term adjustment. See 57 CFR 1.704(b). Status 1)		,					
THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above, the maximum statutory period will apply and will acquire SIX (6) MONTHS from the mailing date of this communication. If the period for reply is specified above, the maximum statutory period will apply and will acquire SIX (6) MONTHS from the mailing date of this communication of the provision of the provis	Peri d for Reply						
1) Responsive to communication(s) filed on <u>04 April 2001</u> . 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disp sition of Claims 4) Claim(s) <u>1-43</u> is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) <u>1-43</u> are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Pri rity under 35 U.S.C. § 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the international Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.	THE I - External after - If the - If NC - Failu - Any I	MAILING DATE OF THIS COMMUNICATION. nsions of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a reply period for reply is specified above, the maximum statutory period w re to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing	36(a). In no event, however, may a repl within the statutory minimum of thirty (: rill apply and will expire SIX (6) MONTH cause the application to become ABAN	y be timely filed 30) days will be considered timely. IS from the mailing date of this communication. IDONED (35 U.S.C. § 133).			
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Attachment(s)							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other:	2) Notic	e of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Info	· · · · · · · · · · · · · · · · · · ·			

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Serial No.: 09/826,115 Docket No.: 14114.0332U3
Applicant: Chang, G.-J. Filing Date: 04/04/01

Restriction Requirement

35 U.S.C. § 121

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

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- a. Group I, claim(s) 1-17 and 28-37, drawn to a nucleic acids encoding flaviviral antigens, classified in class 536, subclass 23,72.
- b. Group II, claim(s) 18-27, drawn to **methods of immunizing** a subject against flaviviral infection, classified in class 424, subclass 186.1.
- c. Group III, claim(s) 38, drawn to a flaviviral antigen, classified in class 424, subclass 218.1.
- d. Group IV, claim(s) 39 and 42, drawn to an antibody capture assay for the detection of flaviviral infection, classified in class 435, subclass 5.
- e. Group V, claim(s) 40, drawn to flaviviral-specific antibodies, classified in class 530, subclasses 388.3 and 389.4.
- f. Group VI, claim(s) 41, drawn to an antigen capture assay to detect flaviviral infection, classified in class 435, subclass 7.1.
- 2. The inventions are distinct, each from the other because of the following reasons:
- 3. Inventions I, III, and V are all unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (M.P.E.P. § 806.04 and § 808.01). In the instant case, each of the identified groups is directed toward a structurally different compound (e.g., nucleic acid, polypeptide, antibody) with disparate functions. Accordingly, each group is directed toward a separate inventive entity.
- 4. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the

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following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the immunization method can employ a number of materially different products such as nucleic acids, polypeptides, recombinant viruses, attenuated viruses, and inactivated viruses.

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- 5. Inventions II, IV, and VI are all unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (M.P.E.P. § 806.04 and § 808.01). In the instant case, each of the identified groups is directed toward a different methodology that accomplishes different scientific objectives employs different and reagents methodology steps. Therefore, each group is clearly directed toward an independent and distinct invention.
- 6. Inventions II and III/V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (M.P.E.P. § 806.04 and § 808.01). In the instant case, the methodology of Group II neither requires nor uses the products of Groups III and V.

7. Inventions III and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, viral infections can be diagnosed through a number of standardized methods such as antigen capture assays, antibody

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capture assays, viral coculture assays, electron microscopy, and PCR amplification.

8. Inventions IV and I/V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (M.P.E.P. § 806.04 and § 808.01). In the instant case, the products of Groups I and V are neither required nor used by the methodology of Group IV.

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- 9. Inventions V and VI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, viral infections can be diagnosed through a number of sundry methodologies such as antigen capture assays, antibody capture assays, viral coculture assays, electron microscopy, Western blotting, and PCR amplification.
- 10. Inventions III/V and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (M.P.E.P. § 806.04 and § 808.01). In the instant case, the methodology of Group VI neither requires nor uses the products of Groups III and V.
- 11. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R. § 1.143). Applicant is also advised that the claims should be amended to reflect the election, where necessary.

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Correspondence

Correspondence related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Official communications should be directed toward the following Group 1600 fax number: (703) 872-9306. Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (703) 308-The examiner can normally be reached Monday through Thursday from 8:30 AM to 6:00 PM. A message may be left on the examiner's If attempts to reach the examiner are voice mail service. unsuccessful, the examiner's supervisors, Laurie Scheiner or James Housel, can be reached at (703) 308-1122 or (703) 308-4027, respectively. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

Respectfully,

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Jeffrey S. Parkin, Ph.D.

Patent Examiner Art Unit 1648

28 August, 2003